

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**MARVIN PORTER and  
TERRI RIDENOUR**  
**Plaintiffs,**

**V.**

**TRIUS TRUCKING, INC. and  
SARBJIT SINGH**

**Defendants.**



**Civil Action No.**

**(JURY)**

## DEFENDANTS' NOTICE OF REMOVAL

Defendants, Trius Trucking, Inc. and Sarbjit Singh (collectively “Defendants”), timely file this Notice of Removal pursuant to 28 U.S.C. §1441(a), 28 U.S.C. §1332(a) and 28 U.S.C. §1446, removing this action from the 271<sup>st</sup> Judicial District Court of Wise County, Texas, to the United States District Court for the Northern District of Texas, Fort Worth Division, and in support thereof, show the court as follows:

## A. INTRODUCTION

1. Plaintiffs commenced this lawsuit against Defendants in the 271<sup>st</sup> Judicial District Court of Wise County Texas by filing their Original Petition on or about August 15, 2014. Service was made on the Defendants on September 9, 2014. True and correct copies of the Original Petition with proof of service are attached hereto as Exhibits “2” and “4”. The state court action is styled as follows: *Marvin Porter and Terri Ridenour v. Trius Trucking, Inc. and Sarbjit Singh*, bearing Cause No. CV14-08571.

2. Defendants are filing this Notice of Removal within 30 days of their first receipt of Plaintiffs' Original Petition and Summons as required by 28 U.S.C. §1446(b).

3. Plaintiffs seek to recover damages in this lawsuit based on allegations of negligence, negligence per se, respondeat superior, vicarious liability, negligence entrustment, and gross negligence. Plaintiffs' claims arise out of a motor vehicle accident occurring on U.S. Highway 81 on April 13, 2014, in Decatur, Wise County, Texas.

**B. JURISDICTION AND REMOVAL**

4. This Court has original jurisdiction over this suit pursuant to 28 U.S.C. §1332, in that there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Accordingly, statutory authority for the removal of this matter is conferred by 28 U.S.C. §§1441 and 1446.

5. The monetary requirement for removal is evidenced through the Plaintiffs' Original Petition under paragraph 3, "the total damages sought by Plaintiffs are in excess of \$1,000,000.00." A true and correct copy of the Original Petition is attached hereto as Exhibit "2".

6. Plaintiffs are domiciled and citizens of the State of Texas as evidenced through paragraphs 4 and 5 of their Original Petition.

7. Defendant Trius Trucking, Inc. is a corporation organized under the laws of the State of California with its principal place of business located in Fowler, Fresno County, California. As such, for diversity purposes is considered a citizen only of the State of California.

8. Defendant Sarbjit Singh is a natural person residing with his wife and family, now and at the time of the filing of Plaintiff's lawsuit, at 2402 Macau St., Bakersfield, California 93313-5806. For diversity purposes, Defendant Sarbjit Singh is domiciled only in the State of California where he has established a fixed abode and intends to remain there permanently.

9. Plaintiffs have incorrectly alleged in their Original Petition that Defendant Sarbjit Singh is a resident of the State of Texas based on the fact that he maintained a Texas driver's license at the time of the subject accident.

10. Defendant Sarbjit Singh was a former resident of the State of Texas and is why he possesses a Texas driver's license. However, Defendant Sarbjit Singh established a permanent abode at 2402 Macau St., Bakersfield, California 93313-5806 prior to and at the time of the filing of the Plaintiff's Original Petition and at the time of the filing of this removal. Furthermore, Defendant Sarbjit Singh intends to remain permanently at his current residence and in the State of California and as such for diversity purposes must be considered a citizen of the State of California, and not Texas.

11. If the court finds it necessary to consider additional information to substantiate that Defendant Sarbjit Singh is a citizen of the State of California and not Texas for diversity purposes, and/or if Plaintiffs file a remand, Defendants, including Sarbjit Singh request leave to introduce evidence outside of the Petition to substantiate the fact that Defendant Sarbjit Singh is a citizen of California and not Texas.

12. All Defendants who have been properly served consent to the removal of this case to federal court.

13. Venue is proper in this district and division under 28 U.S.C. §1441(a) because the state court where this action has been pending is located in this district and division.

14. Plaintiffs did not make a jury demand in state court; however, Defendants request a trial by jury pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and make the necessary payment with the filing of this removal.

15. Defendants will properly serve Plaintiffs with written notification of the filing of this Notice of Removal. Contemporaneous with the filing of this Notice of Removal, Defendants are filing a Notice of Removal with the Clerk for the District Court of Wise County, Texas pursuant to 28 U.S.C. §1446(d).

16. All pleadings, process, orders, and other filings in the state court action are attached to this notice of removal as required by 28 U.S.C. §1446 and local Rule 81.1:

<b>Exhibit</b>	<b>Description</b>	<b>Date Filed in State Court</b>
Exhibit 1	Index of Matters Being Filed	N/A
Exhibit 2	Plaintiffs' Original Petition	August 15, 2014
Exhibit 3	Citations	August 15, 2014
Exhibit 4	Rule 11 dated September 9, 2014 regarding service of process	September 15, 2014
Exhibit 5	Defendants' State Court Answer to Plaintiffs' Original Petition	Mailed October 8, 2014 to Wise County District Clerk for filing
Exhibit 6	Docket Sheet	N/A

17. Filed contemporaneously are all documents required by LR81.1.

WHEREFORE, Defendants, Trius Trucking, Inc. and Sarbjit Singh, hereby remove the above-captioned matter now pending in the 271<sup>st</sup> Judicial District Court of Wise County Texas to the United States District Court for the Northern District of Texas, Fort Worth Division.

Respectfully submitted,

**SHEEHY, WARE & PAPPAS, P.C.**

/s/ William J. Collins, III

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**ATTORNEYS FOR DEFENDANTS  
TRIUS TRUCKING, INC. and  
SARBJIT SINGH**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above foregoing instrument has been forwarded via certified mail, return receipt requested, messenger delivery, e-filing, or facsimile transmission on this the 9<sup>th</sup> day of October, 2014 to the following counsel of record:

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/s/ Edward Kiss

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